

24 January 1973

MEMORANDUM FOR: General Counsel, CIA

SUBJECT : Assisting the Justice Department in
The Pentagon Papers Trial

ATTACHMENTS : A) "Forwarding a Complaint to the
Inspector General, United States
Army," 8 December 1972
B) "Confirmation Copy of a Memorandum,"
11 January 1973
C) "More Details on an Alleged
Fabrication," 16 January 1973

1. The account on page 15 of the 20 January 1973 edition of the New York Times states that a government witness in the Pentagon Papers trial testified in open court that the release by the defendants of a report of the Joint Chiefs of Staff, written in February 1968, was against the public interest. The report listed some Order of Battle numbers purporting to show how many troops the Communists had committed to the Tet offensive. Although the Times account did not say where the numbers came from, they may have been produced by the US Military Assistance Command Vietnam (MACV). The Times reported that the witness was Lieutenant General William G. DePuy, said to be a close associate of General William C. Westmoreland.

2. The Attachments allege that MACV-produced Order of Battle numbers of approximately that period had been deliberately fabricated. Please note that Paragraph 7 of Attachment A raises the possibility that General Westmoreland may have been ultimately responsible for the fabrication. Paragraph 3 of Attachment B notes the Sections of the Uniform Code

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of Military Justice which may have been violated. On 16 January 1973, Colonel Charles H. Curtis, Director of the Office of Investigations and Complaints of the US Army Inspector General, informed me by telephone that an investigation of the allegations may be pending.

3. Please observe that the government, in objecting to the release of the report referred to in Paragraph 1, above, may be raising a legal question of whether it is a federal crime to release fabricated statistics. Then too, there may be problems arising from the relationship between General Westmoreland, and the government witness, General DePuy.

4. I am sure you will agree that these potential legal problems may have some bearing on the government's case. I therefore respectfully request that you bring the matter, together with the Attachments, to the immediate attention of the Justice Department, so that it may sort the problems out.

5. Please inform me in writing how you dispose of the matter. Thank you in advance.

Samuel A. Adams
DDI/SRS

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Copies to: Inspector General, CIA
Inspector General, US Army (via the
Inspector General, CIA)

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